Hovsepian v. Apple, Inc.
Doc. 209 Att. 5

# EXHIBIT 17

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VS Media, Inc.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

| | |
|---|---|
| ACACIA MEDIA TECHNOLOGIES CORPORATION,<br>Plaintiff,<br>v.<br>NEW DESTINY INTERNET GROUP, ET AL.,<br>Defendants. | Case No. SA CV-02-1040 JW (MLGx)<br><br>**CLAIM CONSTRUCTION BRIEF OF AEBN, INC.; ADEMIA MULTIMEDIA, LLC.; AUDIO COMMUNICATIONS, INC.; CYBERHEAT, INC.; GAME LINK, INC.; INNOVATIVE IDEAS INTERNATIONAL; LIGHTSPEED MEDIA GROUP, INC.; NEW DESTINY INTERNET GROUP, LLC; VS MEDIA, INC.** |
| AND ALL RELATED CASE ACTIONS. | |
| | Date: February 6, 2004<br>Time: 10:00 a.m.<br>Ctrm: |

Notably, the applicants did not amend the term "unique identification code" to read "unique identification codes" after this amendment. (*Id.*)

Because the single group of information having a single, unique identification code may be stored as multiple files, a "unique identification code" cannot be the file name or a file address. Indeed, identifiers such as file names and file addresses were well known at the time the '992 patent was filed, and the applicants did not use these terms in the claims.

Accordingly, the unique identification code must serve the functions of uniquely identifying the group of information retrieved from an item, while not being the same thing as all of the other distinguished "codes." Therefore, the UIDC should be defined as a one-of-a-kind identifier assigned to the group of information representing a single item that is different from a file name or address, popularity code, program note, item title, or unique address code.

### E. "Sequence of Addressable Data Blocks": The Court Should Construe this Limitation to Mean a Continuous Series of Memory Units that Contain Digital Information That Can Be Given an Identifier.

The claim limitation "sequence of addressable data blocks" appears in claims 1 and 41 of the '992 patent in the phrase: "ordering means … for placing the formatted data into a sequence of addressable data blocks." ('992 patent at 20:26-27, 24:65-66.) This claim term is made up of the following constituent words and phrases: "sequence," "addressable," and "data blocks."

The term "sequence" is defined by Webster's as a continuous or connected series. (Ex. Q at 544.) The term "addressable" modifies the term "data blocks," and in the context of claims 1 and 41 means that the data blocks may be given an address to identify them amongst other blocks containing information retrieved from a single item. (Ex. R at 549) (defining "address" as "an identification as represented by a name, label, or number, for a register, location in storage, or any other data source or destination such as the location of a station in a communication network" or "a means of identifying information or a location in a control system."). In the context of data communications, the term "block" means a group of contiguous characters formed for transmission purposes. (Ex. R at 550.)

Accordingly, the Court should construe "sequence of addressable data blocks" to mean a continuous series of memory units that contain digital information that can be given an identifier. This construction is consistent with the figures provided by the '992 patent that show sequences of blocks. (*See, e.g.*, '992 patent Fig. 8e, 19:57-60.) Given that the '992 patent does not describe the term "sequence of addressable data blocks" in any conflicting way and given that the prosecution history does not meaningfully discuss the term, the claim limitation should be given its ordinary meaning. *ACTV, Inc. v. Walt Disney Co.*, 2003 WL 22300131, *7 (Fed. Cir. 2003).

## V. CONCLUSION

For the forgoing reasons, the defendants request that the Court construe the disputed claim limitations as requested herein.

Dated: January 8, 2004

FISH & RICHARDSON P.C.

By: [signature]

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